

1 Mark E. Ellis - 127159
2 Anthony P. J. Valenti - 284542
3 David E. Castro - 298614
4 ELLIS LAW GROUP LLP
5 1425 River Park Drive, Suite 400
6 Sacramento, CA 95815
7 Tel: (916) 283-8820
8 Fax: (916) 283-8821
9 mellis@ellislawgrp.com
10 avalenti@ellislawgrp.com
11 dcastro@ellislawgrp.com

12 Attorneys for Defendant
13 RASH CURTIS & ASSOCIATES

14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 SANDRA McMILLION, JESSICA ADEKOYA,
18 AND IGNACIO PEREZ, on Behalf of
19 Themselves and all Others Similarly Situated,

20 Plaintiffs,

21 v.

22 RASH CURTIS & ASSOCIATES,

23 Defendant.

24 Case No.: 4:16-cv-03396-YGR JSC

25 **DECLARATION OF MARK E. ELLIS IN
SUPPORT OF DEFENDANT RASH CURTIS
& ASSOCIATES' OPPOSITION TO
PLAINTIFFS' MOTION TO APPOINT
KOURTNEY RICHARDSON AS CLASS
REPRESENTATIVE**

DATE: January 9, 2018

TIME: 2:00 P.M.

DEPT: 1

Hon. Yvonne Gonzalez Rogers

26 I, Mark E. Ellis, declare:

27 1. I am an attorney at law duly licensed to practice before this Court, and I am the
28 managing partner in the law firm of Ellis Law Group LLP, attorneys of record for Defendant RASH
CURTIS & ASSOCIATES in the above matter. This declaration is based upon my own personal
knowledge except as to those matters stated upon information and belief, and as to those things I
believe them to be true. If called as a witness to testify to the matters asserted herein I would do so
competently.

26 2. The *Richardson v. Rash Curtis* matter was filed on April 13, 2017. Very little litigation
27 or discovery has been done to date. The parties prepared and filed a joint Case Management
28

1 Conference Statement, and an anticipated ENE Conference was set.

2 3. However, Plaintiff's lead counsel resides in Florida, and he was affected by the
 3 September 2017 hurricanes there, and the ENE Conference was postponed. Meanwhile, in the instant
 4 (McMillion) matter, class discovery proceeded.

5 4. Class counsel here has suggested that all necessary discovery, including Ms.
 6 Richardson's deposition could be conducted over the next two weeks. Of course, Ms. Richardson's
 7 actual attorneys will need to agree to produce her. This "hurry up over the holiday" plan is not
 8 workable, and is definitely intended to prejudice Rash Curtis' due process rights.

9 5. The emails in Plaintiffs' Exhibit 7 which refer to an account No. 1952383 for Mr.
 10 Prashad related to medical services rendered at John Muir which had been referred to Rash Curtis in
 11 2013, but which were not collected on in 2016 or 2017 (the time period in question here) are attorney-
 12 client privileged and subject to this Court's claw-back order.

13 6. On October 24, 2017, I attended and defended the deposition of Bob Keith, Vice
 14 President of Operation at Rash Curtis, and class counsel improperly attempted to use Exhibit 7 at his
 15 deposition. I objected on the basis of privilege. Attached to Defendant Rash Curtis & Associates'
 16 Master List of Exhibits as **Exhibit B**, are true and correct copies of excerpts from Bob Keith's
 17 deposition.

18 7. I stipulated to permit class counsel to ask question based upon the stipulation that there
 19 was no waiver of the attorney-client privilege, and class counsel agreed.

20 8. The emails in Plaintiffs' Exhibit 7 are attorney-client privileged as communications
 21 between counsel and client, and between client contact (Bob Keith) and client and business associates
 22 on behalf of counsel within the first month of the *Richardson* litigation.

23 9. The emails in question were produced in response to this Court's orders, and they are
 24 subject to the stipulated claw-back order. A privilege log related to the emails produced four times
 25 (from different users' email accounts) was produced identifying these specific emails as privileged.
 26 Attached to Defendant Rash Curtis & Associates' Master List of Exhibits as **Exhibit C** is a true and
 27 correct copy of excerpts from Defendant's privilege log.

10. The privilege was asserted when the emails were produced. These emails are required to be given back, which class counsel has not yet done.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this Declaration was executed on December 18, 2017 in Sacramento, California.

/s/ *Mark E. Ellis*

Mark E. Ellis